

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL
CONSUMER PROTECTION DIVISION

In the Matter of:

Attorney General
File No. 2013-0039412-A

ASSOCIATED COMMUNITY SERVICES, INC.;
Doing Business As: AC SERVICES.

Respondent.

Notice of Intended Action and Cease and Desist Order

TO: Associated Community Services, Inc., d/b/a AC Services.

Attn: Robert W. Burland, Jr. and Richard T. Cole
29777 Telegraph Road, Suite 3000
Southfield, Michigan, 48034

Heather Thomas
Copilevitz & Canter, LLC
310 W. 20th Street, Suite 300
Kansas City, Missouri, 64108

Bill Schuette, Attorney General of the State of Michigan, under Section 20(4) of the Charitable Organizations and Solicitations Act ("Solicitations Act"), MCL 400.290 *et seq.*, gives Associated Community Services twenty-one days (21) to respond to this notice. If no satisfactory response is received within that time, the Attorney General intends to bring a civil action under Section 20(1) of the Solicitations Act.

The Attorney General also ***orders*** Associated Community Services to ***cease and desist*** the legal violations detailed below.

I. Factual Allegations

1. Respondent Associated Community Services, Inc. (“ACS”), doing business under the assumed name of AC Services, is a Michigan corporation with a registered office address of 29777 Telegraph Road, Suite 3000, Southfield, Michigan, 48034.

2. ACS is licensed as a professional fundraiser (AG File# 22535) with the Michigan Department of Attorney General’s Charitable Trust Section. ACS is one of the largest professional fundraisers in Michigan. It has a large call-center at its headquarters in Southfield, and a second location in Dearborn. ACS employs more than 900 people—the vast majority as telemarketers.

3. As a licensed professional fundraiser, ACS is a person subject to the authority of the Attorney General under the Solicitations Act. MCL 400.271 *et seq*; MCL 400.272(e).

4. In January 2013, the Charitable Trust Section received a complaint against Associated Community Services; the complaint came from one of ACS’s former employees. See Exhibit 1, Complaint. The former ACS employee complained that ACS was using a telemarketing script that included a misleading credit-card rebuttal. *Id.* In the scripted rebuttal, if a donor said he didn’t like to pay by credit card over the phone, the ACS telemarketer was to respond: “for that very reason, we are on file with the **State Attorney Generals Office**. . .” [emphasis in original] *Id.*

5. This rebuttal misleads donors into thinking that, if ACS is on file with the Attorney General, then ACS can be trusted with the donors' credit-card information. But being "on file" with the Attorney General's Office says nothing about ACS's ability to protect credit-card information; instead, it simply means that ACS is licensed to fundraise on behalf of charity in Michigan. MCL 400.287. Because ACS's credit-card rebuttal implies otherwise, it is misleading.

6. The Charitable Trust Section investigated by asking ACS to respond to the allegation and to produce relevant documents, including call recordings from the week of December 4, 2012 (one of the weeks that complainant worked there) and from the week of January 21, 2013 (the most recent week of calls). See Exhibit 2, Request for Documents.

7. ACS responded in writing on February 18, 2013, denying all allegations. See Exhibit 3, ACS Response. ACS also produced the requested documents, including 370 pledge verification recordings from the requested two weeks. See Exhibit 4, CD of Call Recordings.

8. The Charitable Trust Section reviewed the submitted 370 recordings for violations of the Solicitations Act. In fourteen of the recordings, an ACS telemarketer used a misleading credit-card rebuttal to convince a donor to complete his or her pledge by credit card. See Exhibit 4; see also Exhibit 5, March 25 memo (includes partial transcript of calls). In each of these fourteen recordings, the following occurred: the caller (who usually sounded elderly) hesitated about making a credit-card payment over the phone; the ACS telemarketer responded by

informing the caller that ACS was licensed with the Attorney General; the rebuttal convinced the donor to complete the transaction.

II. Law

9. Section 18 of the Solicitations Act prohibits persons subject to the Act from engaging in a variety of deceptive acts. MCL 400.288.

10. Section 18(h) prohibits acts that: “[m]ake a misrepresentation to a person by any manner that would lead that person to believe that registration or licensure under this act constitutes endorsement or approval by a department or agency of any state or the federal government.” MCL 400.288(h).

11. Section 18(n) prohibits acts that: “[e]mploy any device, scheme, or artifice to defraud or obtain money or property from a person by means of a false, deceptive, or misleading pretense, representation, or promise.” MCL 400.288(n).

12. Under section 18(r), a person subject to the Act may not “[f]ail to file any information or reports required under this act.” MCL 400.288(r).

13. Under Section 18(u)(ii), a person subject to the Act may not submit “a document containing any materially false statement” to the Attorney General. MCL 400.288(u)(ii).

III. Violations of the Solicitations Act

14. The conduct alleged above violates the Charitable Organizations and Solicitations Act in the following ways.

15. In each of the fourteen calls, ACS referenced the name of the Attorney General's Office as a part of a device, scheme, or artifice to obtain an immediate credit-card donation from the donor. ACS's use of the name of the Attorney General's Office misled the donor into believing that ACS could be trusted with the donor's credit-card information; the donor then completed the donation by credit card. In each call, ACS's actions violated Section 18(n) of the Solicitations Act.

16. In each of the fourteen calls, ACS's credit-card rebuttal also misrepresented to donors that ACS's license with the Attorney General endorsed ACS's ability to protect credit-card information. In each call, ACS's actions violated Section 18(h) of the Solicitations Act.

17. In each of the fourteen calls, the telemarketer used a rebuttal that was similar or very similar to the script of the misleading credit-card rebuttal submitted by the complainant. That script is dated May 25, 2012. We conclude that ACS has been using that script on a daily basis since May 25, 2012. By so doing, ACS has likely violated Sections 18(h) and (n) of the Solicitations Act hundreds of times. For purposes of this action, the Attorney General alleges that, from May 25, 2012 through January 28, 2013 ACS violated Sections 18(h) and (n) one hundred times. These one hundred violations are in addition to the twenty-eight violations discussed above.

18. Section 4(2) of the Solicitations Act states: "Copies of all soliciting materials shall be supplied upon request of the attorney general." In its January 28, 2013 letter to ACS, the Charitable Trust Section asked ACS to produce "copies

of all soliciting materials” and “scripts for all charitable solicitations.” See Exhibit 2. ACS failed to produce the script with the misleading credit-card rebuttal. ACS violated Section 18(r) of the Solicitation Act by failing to file a document required by the Act.

19. In ACS’s February 18, 2013 response letter to the Department of Attorney General, ACS compliance officer Jody Wahl specifically denied the allegation regarding the misleading credit-card rebuttal, stating:

A copy of the approved rebuttals to credit card/ACH transactions is included with the documents produced. To the extent that any solicitor made reference to the Attorney General’s Office, it was intended for compliance with the disclosure requirements and to answer any question as to how a person can verify registration with that office. If a telephone representative has incorrectly inferred otherwise, that employee has not followed the approved presentation and is subject to disciplinary action. [Exhibit 3]

20. ACS’s denial is a false statement and violates Section 18(u)(ii) of the Solicitations Act. Contemporaneous with ACS’s denial letter, it submitted recordings of the fourteen offending calls. Contrary to ACS’s denial, ACS’s use of the name of the Attorney General’s Office was not “intended for compliance with disclosure requirements” of Michigan or other states;¹ ACS’s use of the name of the Attorney General’s office was not “to answer any question as to how a person can verify registration with that office.” Instead, ACS used the name of the Attorney General’s Office to rebut the donor’s concerns about using a credit card over the

¹ Some states require professional fundraisers to disclose their registration status with a caller; Michigan has no such requirement. Regardless, in the fourteen calls, ACS’s reference to the Attorney General’s Office was done to rebut the donors’ hesitation about using credit cards—not to comply with any disclosure requirements.

phone. Therefore, ACS's February 18, 2013 letter to the Attorney General included a false statement.

IV. Attorney General's Authority

21. Section 20 of the Solicitations Act specifies the Attorney General's authority to redress violations of the Solicitations Act, including:

- a. Issuing a Notice of Intended Action, MCL 400.290(4);
- b. Issuing a Cease and Desist Order, MCL 400.290(4);
- c. Bringing a civil action in court with a fine of up to \$10,000 per violation, MCL 400.290(1);
- d. Accepting an Assurance of Discontinuance; MCL 400.290(4); and
- e. Requesting injunctive relief, MCL 400.290.

22. Section 20 also allows the Attorney General to proceed against individual officers, directors, shareholders, or controlling members of ACS. MCL 400.290(1).

V. Cease and Desist Order

23. The Attorney General HEREBY ORDERS Associated Community services to CEASE and DESIST the violations of the Solicitations Act that are detailed above.

24. Violations of this order may result in a civil action for civil fines or revocation of ACS's professional fundraising license.

VI. Opportunity to Respond

25. Within twenty-one (21) days of receiving this Notice, ACS has the opportunity to respond to the undersigned Assistant Attorney General.

26. If no satisfactory response is reached during this period, the Attorney General intends to bring a civil action against ACS in circuit court; the Attorney General will request injunctive relief and civil fines for each violation described in Section III, above. Each of the 230 violations described in Section III are subject to a civil fine of up to \$10,000.² If the Attorney General elects to proceed in court, ACS faces a total fine of up to \$2,300,000.

BILL SCHUETTE
ATTORNEY GENERAL

William R. Bloomfield (P68515)
Assistant Attorney General
Charitable Trust Section
P.O. Box 30213
Lansing, MI 48909
Phone: (517) 335-0855

Date: May 28, 2013

² 114 violations of Section 18(h), see above, ¶¶ 16 and 17; 114 violations of Section 18(n), ¶¶ 15 and 17; one violation of Section 18(r), ¶ 18; one violation of section 18(u)(ii), ¶ 20.

Exhibit 1

Conley, Patricia (AG)

From: Charitable Trust, Attorney General
Sent: Tuesday, January 22, 2013 9:04 AM
To: Conley, Patricia (AG)
Subject: FW: Charitable Trust Division Complaint-ACS Services

Follow Up Flag: Follow up
Flag Status: Flagged

From: [REDACTED]
Sent: Tuesday, January 22, 2013 9:00 AM
To: Charitable Trust, Attorney General
Subject: Charitable Trust Division Complaint-ACS Services

January 22, 2013

To Whom It May Concern:

Please consider this as a formal complaint against the Associated Community Services Organization operating in both Dearborn and Southfield Michigan.

As a former employee who quit and walked out in disgust 2 weeks ago, I feel that the Attorney General must be made aware of how they are taking advantage of both senior citizens nationwide as well as their local employees. They are using high-pressure sales tactics calling on behalf of at least 25 various so-called charities and making employees demand that the seniors give their credit card numbers and calling some people 4-10 times a day repeatedly bordering on harassment.

More importantly, they are making the seniors think that they have previously pledged a certain amount of money on a past date with a previous representative when that conversation never even happened. I found that out first hand when I called a prospective donor to solicit a pledge and looked on my computer screen and saw that it said that the initial conversation and pledge was made by myself [REDACTED] in November, 2012. I was amazed by that because I knew that couldn't be true because I wasn't even employed there in November, as I began working there on December 4, 2012. When I showed the screen to a supervisor and questioned the fact with a manager, I was reprimanded and told that I should just disregard it, that they had been doing business for 25 years and to just do my job. They are targeting a customer base comprised of primarily senior citizens on fixed incomes with Alzheimer's, disabled people, and frankly they are preying on them and lying to them. In addition, employees are not allowed to have a lunch or break in spite of working shifts ranging from 7 to mandatory 10 hours. Also, they deduct \$16.00 from your first 5 checks supposedly for headsets that do not exist. In reality, sales agents use hand-held ancient phones that must be sanitized daily with one hand and type with the other. If you want to eat, you must do it at your seat while talking to customers, basically a juggling act. The "break room" is always empty and is strictly for show, as no lunch period exists. When I quit, I was told that the money deducted from my check for a headset that I never received would be reimbursed, however of course that never happened. I am more concerned, however, about the scam that they are doing to senior citizens

throughout the country, and I hoping that you can stop them. I have saved all the documents I received when I began employment with them, including the employment contract I was made to sign and their sales pitch, if it will help in your investigation. My phone number is [REDACTED] E-Mail is [REDACTED]

Thank you for your prompt attention.

Sincerely,

[REDACTED]

[REDACTED]

Conley, Patricia (AG)

From: Charitable Trust, Attorney General
Sent: Wednesday, January 23, 2013 9:43 AM
To: Conley, Patricia (AG)
Subject: FW: ACS-Associated Community Services / Additional Information

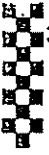
From: [REDACTED]
Sent: Wednesday, January 23, 2013 7:54 AM
To: Charitable Trust, Attorney General
Subject: ACS-Associated Community Services / Additional Information

January 23, 2013

This communication is regarding the complaint I filed yesterday, January 22, 2013. I forgot to mention an important fact that may you may also find interesting in your investigation. When prospective donors give any resistance to agents when they are instructed to tell them to "go grab your credit card.".....This is the "approved" rebuttal that is printed and what we are told to say. If a customer says "I don't like giving my credit card information over the telephone." The response from the agent must be "I understand, but for that very reason, we are on file with the State Attorney General's Office and we also use an encrypted system." "So, to help the charity, Ms. Smith, go ahead and grab your credit card; will that be Visa or Master Card?" This creates the illusion that your office is endorsing their process and their organization and often customers who were reluctant to donate then go ahead and give money. I just thought you might want to know. Thanks for your attention in this matter.

Sincerely,

[REDACTED]



313 624 9416

05:25:45 p.m. 01-28-2013

1/4

**MICHIGAN WORKS!
ONE STOP SERVICE
CENTER****Fax**

To: *PAT CONLEY* ^{*@MICHIGAN*} *ATTORNEY GENERAL* From: [REDACTED]
Fax: *517-335-1935* Pages: *4*
Phone: Date: *JANUARY 28, 2013*
Re: *ACS MANAGEMENT COMPLAINT* CC:

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

HERE ARE THE DOCUMENTS THAT WE DISCUSSED ON FRIDAY
TO HELP IN YOUR INVESTIGATION. SORRY ABOUT THE CROSS
OUT OF THE WORDS "VISA/MASTERCARD" ON THE REBUTTAL SHEET,
I DID THAT DURING TRAINING SINCE THE PITCH IS SO LONG
AND SIMPLY SAID, "WHAT DO YOU PREFER?" HOWEVER, WHEN
I WAS MONITORED I WAS REPRIMANDED AND WARNED TO
ONLY RECITE THE PITCH EXACTLY AS IT IS WRITTEN.
THANKS AGAIN FOR YOUR ATTENTION REGARDING THIS MATTER.

[REDACTED]

APPROVED OB REBUTTALS

UPDATED: 05/25/12.

> OBJECTION # 1

"I don't like giving out my credit card information over the telephone!"

> RESPONSE

- 1. I truly understand (customers name) because I would be concerned also! But for that very reason, we are on file with the State Attorney Generals Office and we also use an encrypted system. So it's a very safe and secure process!!! So (customers name) to help the (charity purpose) right away, will you be using debit or credit to process your gift today ☺?

> OBJECTION # 2

"I would be more comfortable simply mailing in my pledge card!"

> RESPONSE

1. I understand (customers name) because that's the way we've made pledges for years☺ but today you don't have to waste a check, use a stamp or go to the post office. (Customers name) the same information you are mailing in...we can process by phone today. It takes about 30 seconds to process and you're all set! I'll hold while you grab your checkbook ☺.

> OBJECTION # 3

"How do I know that you're not going to process this payment for more than the pledge amount?"

> RESPONSE

1. I understand because I would be concerned also! However (customers name) we hold your security as a top priority. We value your support and we would never jeopardize that! You can also verify with your bank that your gift was processed for \$___ and not a penny more ☺! So (customers name) to help (charity purpose) right away will you be using debit or credit for your gift today ☺?

Old Business Credit Card Presentation

16 December 2012

ASSUME THE NAME

Hi (customer's name), this is (your full name), working for AC-Services, fundraising on behalf of (client full name), how are you today? (*Respond accordingly*)

(Customer's first name) about (5/8/11) weeks ago you agreed to a (\$) gift for the (client full name). Our records show that we have not received your pledge yet. We're calling to make sure that you're still committed to the (client full name) and to make sure the (\$) pledge is still affordable?

If no: {rebut using proper technique and resell the charity cause}

If yes: For your convenience we are able to process your donation with Credit or Debit card—will that be ~~Visa or Mastercard~~? (*we also accept Amex & Discover)

If no: {rebut once using proper technique}

---(*IF still no after rebutting ONCE to CC no*)

Will you be using a check to pay your donation?

(*If yes*) Great, we can process your check by phone and save you a trip to the mailbox! I can wait while you get your checkbook...

If yes to CC or Check: Awesome, in order to process your donation today and also for your protection I will need a brief authorization at the end of this call, is that OK?

TAKE INFO

CC CLOSE: OK (customer's first name) you have agreed to a (\$) donation for the (entire charity name) on (today's date), and you will be using your (credit/check) account number with the last four digits (give last 4 digits), is that correct? On behalf of the (entire charity name) I want to say thank you! **END CALL**

If no to CC & check: Great that's no problem do you still have your pledge information that we sent out?

If yes: go to WM close

If no: Please grab a pen and paper so I can give you the address and billing information.

WM CLOSE: GREAT please make sure your (\$) check or money order is made payable to the (client full name). Can you please drop it off in the mail today?

If yes: Thank donor and end call

If no: Remember (customer's name) the sooner you mail back your donation—the quicker it helps the (charity cause). So when could you mail back your pledge?

Always end with: I want to say thank you on behalf of the (cause)!

Memo

Date: 12/08/2011
To: ALL OB EMPLOYEES
From: ACS MANAGEMENT
RE: MANDATORY PERCENTAGE QUESTION POLICY

EFFECTIVE IMMEDIATELY YOU ARE NO LONGER PERMITTED TO ANSWER YOUR OWN PERCENTAGES, IF ASKED THE PERCENTAGE QUESTION OR ANY QUESTION SIMILAR.

AFTER TELLING THE CUSTOMER TO HOLD FOR THEIR QUESTION AND MUTING YOUR PHONE YOU MUST GET A TRAINER IMMEDIATELY BY STANDING UP AND YELLING **"PERCENTAGE"**.

ALSO, IF YOU ARE CAUGHT BY QUALITY CONTROL OR OB MANAGEMENT ANSWERING YOUR OWN PERCENTAGE CALL, YOU WILL BE **TERMINATED** ON THE SPOT WITH **NO EXCEPTION TO THE RULE!**

Exhibit 2

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



BILL SCHUETTE
ATTORNEY GENERAL

P.O. Box 30214
LANSING, MICHIGAN 48909

January 28, 2013

Heather Thomas
Copilevitz & Canter, LLC
310 W. 20th Street, Suite 300
Kansas City, Missouri, 64108

Re: Complaint against Associated Community Services

Dear Ms. Thomas:

The Charitable Trust Section recently received a complaint against your client, professional fundraiser Associated Community Services ("ACS") of Southfield, Michigan. The complaint came from a former employee of ACS. Specifically, the complaint alleges that ACS telemarketers are:

- (1) deceiving seniors into thinking they had previously pledged to the organization, a possible violation of Sections 18(m) and (n) of the Charitable Organizations and Solicitations Act, MCL 400.271 *et seq.*;
- (2) harassing callers, and especially seniors, by calling 4 to 10 times per day, a possible violation of § 310.4(8)(b) of the FTC's Telemarketing Sales Rules; and
- (3) using a call rebuttal that falsely implies to donors that they can safely give ACS their credit card info because ACS is "on file" with the Attorney General, a possible violation of Sections 18(1)(h) and 23(g)(iv) of the Solicitations Act.

These are serious allegations and, if true, the Attorney General could redress either by administratively suspending or revoking ACS's professional fundraising license or by seeking damages or other relief in court.

To determine whether an allegation is true, the Solicitations Act gives the Attorney General authority to investigate complaints, *see* MCL 400.291. Moreover, the Act gives the Attorney General broad discretion in the manner of investigating complaints, authorizing both compulsory testimony and production of documents.

To investigate the present complaint, the Attorney General requires ACS to produce:

- (a) call logs for outbound, completed calls to Michigan residents from December 1, 2012 through January 28, 2013; the logs must show the name, number, and time called and should be produced in an electronic spreadsheet format (such as Microsoft Excel);

Heather Thomas
Page 2
January 28, 2013

- (b) recordings of all outbound, completed calls to Michigan residents made from December 4, 2012 through December 10, 2012; recordings should be in .mp3 format;
- (c) recordings of all outbound, completed calls to Michigan residents made from January 21, 2013 through January 27, 2013; recordings should be in .mp3 format;
- (d) copies of all soliciting materials; and
- (e) scripts for all charitable solicitations.

And in responding, please note that failing to file any information required under the Solicitation Act is also a violation of the Act. *See* MCL 400.288(r).

Please compile this information **by February 18, 2013**. Charitable Trust Auditor Joe Kylman and I will come to ACS's main office at 29777 Telegraph Road, Suite 3000, Southfield, Michigan on Monday, February 18, 2013 to inspect its books and records [*see* MCL 400.278], to obtain its response to the allegations, and to tour the facilities. ACS should deliver the requested materials to us at that time.

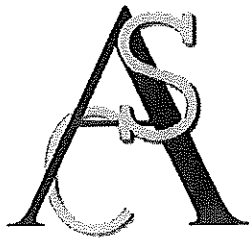
Sincerely,

William R. Bloomfield
Assistant Attorney General
Charitable Trust Section
(517) 373-1152

WRB

cc: Associated Community Services

Exhibit 3



Associated Community Services

29777 Telegraph Rd, Suite 3000 • Southfield, MI 48034 • (248) 352-2600 • (248) 351-3504 FAX

February 18, 2013

William R. Bloomfield
Assistant Attorney General
Office of the Attorney General/Charitable Trusts
P. O. Box 30214
Lansing, MI 48909

Dear Mr. Bloomfield:

In response to your January 28, 2013 correspondence, Associated Community Services ("ACS") provides the following information to the Attorney General.

1. A disc that includes a spreadsheet showing the log of outbound completed calls to Michigan residents from December 2, 2012 through January 28, 2013, showing the name, telephone number, and time called.
2. A disc that includes recordings made to Michigan residents during the periods outlined in your correspondence. However, the recordings made are limited to the verifications of electronic payments by ACH or credit card. ACS does not record solicitation calls made to Michigan residents. It is required to record the verification portion of any pledge that results in payment by electronic means.
3. Copies of written solicitation materials and scripts.

ACS wishes to also offer the following information relative to the allegations made to your office.

ACS purchases lists of persons who have landline telephone numbers. It does not request or obtain any demographic data whatsoever and does not target senior citizens. Furthermore, at no time does ACS ever request, collect, maintain or otherwise have access to any age-based demographic or age-identifying information so as to be able to "target" any particular age group.

ACS' client presentations to prospective new donors do not include any language that suggests or implies that the individual previously donated to the organization.

ACS's dialing equipment is generally set to first call a number in the early part of the day, and if no person answers, the number will be called again later in the day. If the call is not

answered, it may be again called in the evening. Generally, a number may be called two to three times per day, if not answered, to a maximum of four times.

Finally, the former employee alleged that ACS uses a call rebuttal that falsely implies to donors that they can safely give their credit card information because ACS is on file with the Attorney General.

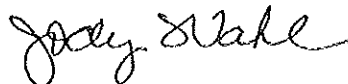
As you know, ACS solicits in more than two dozen states across the country. Many state laws require certain information be disclosed to a potential donor. The State of Illinois, for instance, requires disclosure that the "contracts and reports regarding the nonprofit organization are on file with the Illinois Attorney General."

Colorado requires a statement that copies of registration and financial documents are available from the Secretary of State. Kansas requires the disclosure that an annual financial statement is on file with the Secretary of State. Maryland requires a disclosure that documents and information are available from the Secretary of State.

A copy of the approved rebuttals to credit card/ACH transactions is included with the documents produced. To the extent that any solicitor made reference to the Attorney General's Office, it was intended for compliance with the disclosure requirements and to answer any question as to how a person can verify registration with that office. If a telephone representative has incorrectly inferred otherwise, that employee has not followed the approved presentation and is subject to disciplinary action.

We look forward to providing you with a tour of the office and answering any questions you may have.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Jody Wahl".

Jody Wahl
Compliance Officer

Exhibit 4

CD of call recordings

Exhibit 5

DEPARTMENT OF
ATTORNEY GENERAL

M E M O R A N D U M

March 25, 2013

TO: Will Bloomfield

FROM: Joe Kylman

RE: Associated Community Services
Violations of Charitable Organizations and Solicitations Act

Violation 1: Failure to provide copies of all soliciting materials upon request of the Attorney General. MCL 400.274

Will Bloomfield's letter of 1/28/13 to ACS law firm noted that we had received a complaint from a former ACS employee. WB's letter specifically noted one allegation was that ACS used a call rebuttal that falsely implies that donors can safely give credit card information because ACS is "on file" with the Attorney General. The complainant had provided a copy of a solicitation script that specifically provided a rebuttal to any person that did not want to give credit information over the phone that said:

"I truly understand (customer's name) because I would be concerned also! But for that very reason, we are on file with the State Attorney General's office and we also use an encrypted system." [emphasis in original]

The rebuttal is dated May 25, 2012, but the complainant did not begin working for ACS until December 2012, so it continued to be used very recently. Use of it in January, 2013, is evidenced by recorded calls provided to us.

WB's letter requested copies of all solicitation materials and scripts for all charitable solicitations. Although they provided telemarketing scripts, including some credit card rebuttals, ACS failed to provide the rebuttal that references the Attorney General's office.

Violation 2: Submitting a document to the Attorney General that contains a materially false statement. MCL 400.288(1)(u)(ii)

See facts above in 1.

In response to WB letter, when visiting the ACS facility in Southfield, the Attorney General's representatives were provided a letter from ACS Compliance Officer Jody Wahl. Wahl's letter noted that many state laws require disclosure that contracts and reports are on file with the attorney general's office. Wahl also stated:

"To the extent that any solicitor made reference to the Attorney General's office, it was intended for compliance with the disclosure requirements and to answer any question as to how a person can verify registration with that office."

Michigan's Solicitation Act does not have any such required disclosures. Further, recordings of calls made by ACS to Michigan residents that were provided ACS to the Attorney General's office reveal that donors were implicitly told that it is safe to provide credit card information because ACS is on file with the Attorney General's office.

Wahl's written statement that such statements were only for compliance with disclosure requirements is materially false.

Other Violations

Making a representation that would lead a person to believe that licensure under COSA constitutes endorsement or approval by a department of the State of Michigan. MCL 400.288(1)(h)

Employing a device or scheme to obtain money from a person by means of a false, deceptive, or misleading pretense or representation. MCL 400.288(1)(n)

If a donor did not want to provide his or her credit card information over the telephone, an ACS rebuttal said:

"I truly understand (customer's name) because I would be concerned also! But for that very reason, we are on file with the State Attorney General's office and we also use an encrypted system." [emphasis in original]

This misleads a donor to believe that the Attorney General's office has approved or endorses ACS's credit card payment system. Each time this rebuttal was used it constituted a violation.

There were also 14 call recordings submitted by ACS that included one or more violations in each call. Below are partial transcriptions of these 14 calls.¹

Call 1

Partial transcription of recording CS_0689 _2013-01-21_00270_00059.mp3

ACS – "...you were very generous to agree to a \$20 donation to the Cancer Fund of America and they're showing that they haven't received your gift yet so we wanted to make sure you were still comfortable and committed with helping out [inaudible]..."

DONOR - "It's still here. I just haven't gotten to it yet."

ACS – "Oh...okay...Well..."

¹ All transcriptions were made by Joe Kylman March 8 - 13, 2013 and March 20-25, 2013.

DONOR - "It's sitting right here."

ACS- "Oh. Great. Great. Well, I can verify I'm calling on behalf of the charity and we can take care of your gift tonight with your check by phone or with a debit or credit card and then you'll be all set after the phone call."

DONOR - "I'll just send it in."

ACS - "Okay. It would allow your gift to get to work a whole lot faster and it is a very safe and secure process. Our system is always on file with the state Attorney General's office and it is encrypted so we erase your information at the end of the phone call to ensure security. We can save you that pesky stamp and that trip to the mailbox doing it for you electronically tonight."

DONOR - "Okay...and that'll stop my pesky phone calls."

ACS - "Oh yeah...definitely, that, too." [laughter]

DONOR- "Sorry."

ACS - "No...No...[inaudible] [laughter] I would have said it too."

DONOR - "Okay. That's fine."

ACS - "All right, which option did you want to take?"

DONOR - "Ummm...just use my credit card."

Call 2

Partial transcription of recording CS_2003_2012-12-04_00020_TBCS.mp3

ACS - "...we appreciate your support for the Breast Cancer Society. These ladies could not do it without your help. Will your donation be by Visa, Master Card, American Express, or Discover?"

DONOR - "I was just gonna write a check."

ACS - "We do always ask if you can do your donation by debit or credit, getting it working for the ladies right away. Is that possible for you today?"

DONOR - "Umm...is this just a one-time thing?"

ACS - "Once a year, Ma'am. We won't call you back until next December."

DONOR - "Yeah...you wouldn't use my card if I gave it..."

ACS - "No! None of the information stays in the computer at all. We give you...we give you a confirmation number over the phone today. It does not cost you one penny to use your credit or debit card. Of course, you'll receive a statement of payment along with a tax receipt - 100% tax deductible. And the number for your state Attorney General's office of Michigan. And the confirmation number in the mail."

Like I said, get you working for those ladies [inaudible]...24 hours later and there's no paperwork on your behalf.

DONOR – “Um....yes, I will.”

ACS – “Okay. What kind of card would you like to use?”

Call 3

Partial transcription of recording CS_2003_2012-12-07_00164_TBCS.mp3

ACS – “...We greatly appreciate your support for the Breast Cancer Society. The ladies couldn't do it without your help. Will your donation be a Visa, Master Card, American Express, or Discover?”

DONOR - “Pardon me?”

ACS – “Will your donation be by Visa, Master Card, American Express, or Discover?”

DONOR - [pause] “It has to be a credit card? Why can't it be a check?”

ACS – “Sorry, sir. I do always ask if you can do your donation by debit or credit to get it working for these ladies right away. Is that possible for you?”

DONOR - [pause] “I guess”

ACS – “We really appreciate it. What kind of card would you like to use? Visa, Master Card, American Express, or Discover?”

DONOR - “Uhhhh...how about a check?”

ACS – “Do you have a debit or credit, or a prepaid card out?”

DONOR - “Yeah, I have one, but I mean I don't use it very often.”

ACS – “We're just asking if you can do your donation by debit or credit to get it working for the ladies right away. It doesn't cost you one penny to do. Of course, you do receive a statement payment along with a tax receipt – it's 100% tax deductible. And the number for your state Attorney General's office. Will that be possible for you today?”

DONOR - [pause] “I guess.”

ACS – “We greatly appreciate it. Will it be a Visa, Master Card, American Express, or Discover?”

DONOR - “Uh....[pause]...Master.”

Call 4

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Partial transcription of recording CS_3767_2012-12-07_00159_TBCS.mp3

DONOR - "Twenty-five."
ACS - "Perfect. And that 25 goes a very long way. And would that be going on either debit or credit for you, Ma'am? We can take Visa, Master, Amex, Discover because it helps women now and I'd send you a tax receipt."
DONOR - [pause] "Ummmm..."
ACS - "We only ask 'cause we're on file with the Michigan State Attorney General's offices up in Lansing. That's something you can always call and verify about AC Services. And it's only one time, so it's not a recurring thing."
DONOR - "Okay...how about a Visa."
ACS - "Yep. That'll work."

Call 5

Partial transcription of recording CS_3767_2013-01-24_00124_TBCS.mp3

ACS - "And how much was your promised donation for these—excuse me—beautiful women?"
DONOR - "Forty dollars."
ACS - "Generous! That forty goes a very long way. And would that be on either a debit or credit for you? We can do Visa, Master, Amex, Discover and it helps the women now and [inaudible] your tax receipt."
DONOR - "Ummmm..." [inaudible]
ACS - "We do keep all contracts and reports on file with the state Attorney General's office up in Lansing."
DONOR - "Okay. It can go on a Visa."

Call 6

Partial transcription of recording CS_3776_2012-12-06_00335_FAV.mp3

ACS - "My apologies for any delays. My name is [redacted] for the Foundation for American Veterans. How are you?"
DONOR - "I'm fine. I'm an American Veteran."

ACS – “Well, amen. We thank you for making a difference. How much did you promise to donate?”

DONOR - “Ohh...I didn’t make a promise. I explained to him we were getting ready to go on a cruise and we’re busy packing and sorting, so...Um...I don’t know, can’t you just send an envelope and then I put in what I want, or write a check?”

ACS- “Well, we need to know how much you’re able to give. We have you down for \$10; that is our smallest donation.”

DONOR - “Well, that’s kind of rinky-dink, but I...I just thought I could...write any amount and put it on a form.”

ACS – “No sir. It’s...we’re looking for a firm commitment at this time.”

DONOR - “All right.”

ACS – “Are you able to give the \$10?”

DONOR - “Of course! Yeah.”

ACS – “Okay. Now did you want to use a credit, debit, or a check by phone today?”

DONOR - “Ummmm....well....I can give you a debit card number.”

ACS – “Okay, let me know when you’re ready.”

DONOR - [pause] “The issue is I...uhh...I’m not trying to insult you, but I don’t know if this is a legitimate number. Now, if I give you my credit card number...you guys c...could steal me blind, you understand.”

ACS – “You said, “if you give us the number”...what happens? I didn’t hear you.”

DONOR - “All right. If I give out the credit card number, it’s unsafe regardless of who’s calling.”

ACS – “Well, actually it is safe because we are registered with our state Attorney General’s office here in Michigan, and we do not keep your credit card information on file. So once I the hit the escape button everything is automatically deleted and you will receive a packet from me in the mail.”

DONOR - “All right.” [starts reading number]

Call 7

Partial transcription of recording CS_4889_2013-01-21_00211_VVM.mp3

ACS – “James spoke to you about making a donation to the Vietnam Veterans of Michigan.”

DONOR - “Yes.”

ACS – “How much did you promise for that donation?”

DONOR - “Well, I didn’t really get around to it, but I just wondered if twenty-five wouldn’t do.”

ACS – “Twenty-five will be fine, dear. You realize that if we gave 25, among the other things we do...it may sound... You know, this isn’t a piece of cake like it was last winter and getting some of these homeless guys off the street would be a real blessing for them. You know, some will go to shelters, some...there’s other things we can do, especially if they have a substance abuse problem or...”

DONOR - “Oh, there must be so many there, it...”

ACS – “You don’t even want to hear the statistics. This will not make your Monday feel better. I mean, I’ve read it, and I’ve said, I read it and I read it wrong and it was, you know, like double what I thought it was. So, it’s...it’s not a pretty sight.”

DONOR - “Ohh....”

ACS – “You know, they make a sacrifice for us and I don’t...you know...sometimes I just get [inaudible] well, you know, they made this choice...No, a lot of them didn’t...so it’s just . . .

DONOR - “Nohhh...”

ACS – [inaudible] “...totally appreciated....Now we’ve asked everyone today...this is a critical time of year and we’ve got a waiting list, which would you be using: your debit or credit card to speed along that donation?”

DONOR - [pause] “Uh...well....”

ACS – “It’s totally up to you. I can assure you we don’t save, you know, per the Attorney General’s office, we do not save any of the information you give us. They go through once and that’s it. Really about...if you can do it today, we cut off some mailing time and gotten aid to the vets in 24 hours.”

DONOR - [pause] “Well, I’m a long way from my...card right now....

ACS – “If you want to get it, I certainly will wait, but it’s always your call on this.”

DONOR - “Honey, would you get my credit card?”

Call 8

Partial transcription of portion of recording CS_5567_2012-12-10_00229_TBCS.mp3

ACS - “...and will you be using Visa, MasterCard, American Express or Discover?”

DONOR - [pause] “uhh...I thought you were going to send something out so I can make a check out.”

ACS – “Well, we always ask because if we can get it working now for the Breast Cancer Society it will save you time and postage. But it would also help [inaudible] the ladies for pain, meds, and medical supplies. Can you use a credit or debit or maybe a prepaid card for your donation?”

DONOR - “Uhhh....prepaid card....uhhhh....I’m kinda thinking I really don’t want to do anything over the phone.”

ACS – “I understand. Some people feel a little leery about using credit or debit by phone. That’s why I have undergone a background check. My name is [redacted]. My agent number is 5567. Now, you will receive a confirmation number at the end of the call. But in the next 3 to 5 business days you’re going to receive a paid statement in the mail and it will have your confirmation number on there as well. And just to let you know, we are on file with the state Attorney General office of Michigan. [pause] So, it is a very safe and secure process.”

DONOR - [pause - sigh] “So, what do you need now?”

ACS- “Would you be usin’ a credit or debit for your donation?”

DONOR - [Pause – breathing - inaudible] “. . . verify this...uh...[inaudible – pause] ... I’m looking for a pen here. [pause] Okay...what’s the number you got there?”

Remainder of call donor takes down ACSs name and number before giving credit card info.

Call 9

Partial transcription of portion of recording CS_7206_2012-12-08_00419_00009.mp3

DONOR - “...I can only give 20.”

ACS – “Okay, let’s process it now by debit or credit. Will that be Visa, American Express, or Discovery?”

DONOR - “Pardon?”

ACS – “I said we can process it by credit or debit card. We have Master, Visa, American Express, or Discover.”

DONOR - “No...I’ll have to think that over.”

ACS – “Oh, really? Well, all our contracts are on file with the state Attorney General’s office. And of course it would help these Viet Nam veterans right away for the holiday instead of waiting a week, you know, after going through the mail. I can give you a confirmation over the phone and you’ll receive it in the mail in three business days for taxes. It’s 100% tax deductible.”

DONOR - “Oh...yeah...[inaudible]

ACS – “[inaudible] your time.”

DONOR - "I can only do twenty."
ACS - "Okay. Well, let's do it now. I'll hold on. Grab your credit or debit card and I'm ready when you are."
DONOR - "My card you need?"
ACS - "Your credit card. Will that be Visa, Master, American Express, or Discover?"
DONOR - "Well...I have to get that. It's in another room."
ACS - "I'll hold on."
DONOR - "Okay"
ACS - "Thank you."

Call 10

Partial transcription of recording CS_8242_2013_01-23_00336_00693.mp3

ACS - "Our records said that we have not received your gift. I want to make sure [inaudible] committed to the \$15 to the Breast Cancer Society."
DONOR - "[to wife] Did we get a Breast Cancer Envelope?"
ACS - "Huh?"
DONOR - "I'll just ask my wife if we got a Breast Cancer envelope. If we did, we'll fill it out. If we didn't...well, we'll make sure you get the \$15 that I promised."
ACS - "Well, Anthony, I just wanted you to give today over the phone with a credit or debit card."
DONOR - "No Ma'am, I don't do anything over the phone. Ummmm. Mary will look over all of our envelopes. Breast Cancer. Now, what city is that from?"
ACS - "It's from the [inaudible], Ohio. Now, I do understand about your safety because I would be concerned also. But for that very reason we are on file with your state Attorney General's office. We also use an encrypted system so it's very safe and secure process. You know, Anthony, the only reason we ask is because it gets the help a little faster. These women [inaudible] meals and should be taking their medicine. And they got kids as well. You know, that's why your \$15 donation is important. But I can process it again today if you're all set and that way you'll be done."
DONOR - "Ummmm...[long pause]....yeah...I'm gonna give you a credit card number for \$15."

Call 11

Partial transcription of portion of recording CS_8242_2013-01-25_00408_00396.mp3

ACS – “...Two to five weeks ago you agreed to a \$20 gift to the Children’s Cancer Fund of America and it shows we have not received your pledge yet. We’re calling to make sure you....”

DONOR - “Oh...okay, well in that case, um, I cannot remember seeing it. Some of our mail has been getting mis-delivered and I think they’ve got someone new substituting.”

ACS – “Okay. We just wanted to make sure the \$20 pledge is still affordable? Is that still affordable?”

DONOR - “Yes, I will still do that one. I did promise that. Um...if you can send something out again just to make sure I have information.”

ACS – “Okay, well for your convenience, we’re also able to process your donation with a credit or debit card. That way you’ll be all set.”

DONOR – “I don’t want to do that now. I am already done that a few times in the past, and right now I would rather not do that.”

ACS – “Okay. Well, remember, we’re still registered with your state Attorney General’s office and we do have an encrypted system. We do make sure that your security is our top priority. We don’t want to jeopardize anybody because we got your support. So, you can also verify with your bank that your donation will be processed for more than a penny more than \$20. Um . . . and it takes just seconds to get a confirmation number right away over the phone, Diane.”

[Background voices] “You can use like a Visa or Mastercard . . .”

DONOR - “Okay...hold on just a second please. [to other person] “Can you hang this up in a minute for me?” [long pause]

DONOR - “Hello?”

ACS – “Diane?” [inaudible]

DONOR - “Sorry...I’m still here.”

ACS – “What kind of card will that be today?”

DONOR - “Ummm...hold on...I’ve got to dig it out.”

Call 12

Partial transcription of portion of recording CS_8242_2013-01-26_00433_00009.mp3

DONOR - “...Yes, I got the envelope. I just haven’t had a chance to send...”

ACS – “Well, that’s why we’re calling. We want to know if you’re still comfortable and committed with helping with a \$20 dollar donation to the Viet Nam Veterans of Michigan. Are you still gonna send that back for the charity?”

DONOR - "Yes, I will."
ACS - "Okay. I can process your gift for your convenience over the phone today with credit or debit card, that way you're all set."
DONOR - [pause] Ummm...I guess I'd rather mail it...just to be on the safe side."
ACS - "You said what now?"
DONOR - "I think I'd prefer to just mail you a check."
ACS - "Oh . . . you said 'to be on the safe side.' We are registered with your state Attorney General's office. We do have the encrypted system. Once information goes in it is not stored and you get a confirmation over the phone today. And a hard copy of your receipt in the mail. So, using a Visa or Master Card you'll get all set. That way you'll get your confirmation today. You don't have to worry about wasting a check or a stamp."
DONOR - "All right. Let's do that."

Call 13

Partial transcription of portion of recording CS_8795_2012-12-06_00328_00009.mp3

DONOR - "...I've got three notices in my mailbox to pay and I just haven't gotten around to it."
ACS - "Oh...geez. Yeah, I see it's the Viet Nam Vets of Michigan. Would you like me to process it with debit or credit? Cause I do...we are registered with the state Attorney General's office. What we do is mail you a receipt. It is tax deductible and give you...
DONOR - "Well, let me do that because I just don't seem to be getting my butt in gear."

Call 14

Partial transcription of portion of recording CS_9098_2012-12-04_00253_FAV.mp3

ACS - "Well, we want to thank you for your support for the Foundation of American Veterans. And how much did you promise to donate?"
DONOR - "I think it was 25."
ACS - "Okay, that is what they placed on my screen and are you comfortable with the pledge?"

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DONOR - "Yes."

ACS – "It goes a long way to help out, [redacted name], it helps them with medical supplies. It also helps them with transitional housing, and counseling, job placement services. So, we appreciate your support. Now, which were you using today; will this be debit or credit? We accept Visa, Master, American Express, and Discover."

DONOR - "Oh my what a [inaudible] . . . well, I guess you guys are...are um...accountable. 'Cause they told me not to use my credit card over the telephone."

ACS – "Well, this is a national organization and because of that we've all had to be...you know, to have stringent background checks. You know, this is a secured environment because we do take sensitive information. This is why we have to be in a different location than anybody else."

DONOR "Okay..."

ACS – "All of my information is on file with the state Attorney General's office...and all my personal information."

DONOR - "Okay. Give me a minute to get my purse, please?"

JJK